



**REPORT ON EXAMINATION  
OF  
STATE INSURANCE FUND DISABILITY BENEFITS FUND  
AS OF DECEMBER 31, 2019**

**EXAMINER:  
DATE OF REPORT:**

**KEVIN MCNAMEE  
MAY 25, 2022**

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

April 16, 2024

Honorable Adrienne A. Harris  
Superintendent  
New York State Department of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 32143 dated September 22, 2021, attached hereto, I have made an examination into the condition and affairs of State Insurance Fund Disability Benefits Fund as of December 31, 2019, and submit the following report thereon.

Wherever the designation "DB Fund" appears herein without qualification, it should be understood to indicate State Insurance Fund Disability Benefits Fund.

Wherever the term "Department" appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## 1. SCOPE OF EXAMINATION

The Department has performed an examination of the DB Fund, a single-state insurer. The previous examination was conducted as of December 31, 2014. This examination covered the five-year period from January 1, 2015, through December 31, 2019. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the DB Fund by obtaining information about the DB Fund including corporate governance, identifying and assessing inherent risks within the DB Fund and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes, but is not limited to, the following:

- DB Fund history
- Management and control
- Territory and plan of operation
- Reinsurance
- Related party
- Financial statement presentation
- Loss review and analysis
- Significant subsequent events
- Summary of recommendations

This report on examination is confined to financial statements and comments on those matters that involve departures from laws, regulations, or rules or that are deemed to require explanation or description.

## 2. DESCRIPTION OF DISABILITY BENEFITS FUND

The State Insurance Fund (“SIF”) was created in 1914, pursuant to the provisions of Article 6, Section 76 of the New York Workers’ Compensation Law (“NYWCL”). Its primary purpose was to provide workers’ compensation insurance for employers in the State of New York. The SIF is comprised of three separate funds: the Workers’ Compensation Fund (“WC Fund”), the Disability Benefits Fund (“DB Fund”), and the Aggregate Trust Fund (“ATF”). The WC Fund insures employers against occupational injury and

disease suffered by their employees; the DB Fund insures against disabling off-the-job sickness or injury sustained by employees; and ATF oversees the regular payment of benefits on adjudicated death cases and certain permanent disability cases. The DB Fund was created in 1950 by amendment to Section 76 of the NYWCL.

The SIF is required to maintain separate records and file separate financial statements for the WC Fund and the DB Fund. This report is confined to the operations of the DB Fund. A separate report on examination was prepared for the WC Fund and the ATF.

A. Corporate Governance

Pursuant to Article 6, Section 77 of the NYWCL, the SIF shall be administered by a board of commissioners consisting of ten members. The New York State Labor Commissioner is a member by virtue of the office, with the other members being appointed by the Governor with the consent of the State Senate. The commissioners are appointed for three years each and must be policyholders insured by the SIF. The board meets every month, except for August, during each calendar year. At December 31, 2019, the board of commissioners was comprised of the following eleven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Nathalie Carey Albany, New York	Executive Deputy Commissioner, New York State Department of Labor
Ryan Delgado Albany, New York	Chief of Staff, AFL-CIO
Sean Graham Brooklyn, New York	Senior Investment Officer, Cornell University
Dr. Navneet Kathuria New York, New York	Chief Medical Officer, Community Health Network
Dr. Dennis Kessler Rochester, New York	Owner & Co-founder, Kessler Group, Inc. & Kessler Family, LLC
Charles MacLeod Smithtown, New York	President, SMM Advertising
Bhakti Mirchandani Bronxville, New York	Director, Trinity Church Wall Street

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Louis Roberti Mount Kisco, New York	President, Arroway Chevrolet
Barry Swidler Glendale, New York	President, American Fire Restoration, LLC
Kenneth Theobalds White Plains, New York	Vice President of Government & Regulatory Affairs, Entergy
Alexis Thomas Brooklyn, New York	Chief Executive Officer & Founder, Preston Hollow Consultants

As of December 31, 2019, the principal officers of the SIF were as follows:

<u>Name</u>	<u>Title</u>
Eric Madoff	Executive Director
Joseph Mullen	Deputy Executive Director
Shirley Stark	Deputy Executive Director
Tanisha Edwards	General Attorney

B. Territory and Plan of Operation

As of December 31, 2019, the New York Workers' Compensation Law Article 6 Section 76 and Article 9 Section 204 vested the authority/power in the SIF to provide insurance for the payment of "disability benefits and family leave" in New York only. Coverage is provided through the DB Fund, a fund within the SIF.

New York Workers' Compensation Law Article 9 Section 214 created a fund known as the special fund for disability benefits to provide for the payment of disability benefits. It further states, as promptly as practicable after April first of each year, the chairman shall ascertain the condition of the fund, and if, as of any such date, the net assets of the fund shall be \$1,000,000 or more below the sum of \$12,000,000, the chairman shall assess and collect an amount sufficient to restore the fund to an amount equal to \$12,000,000.

The following schedule shows the direct premiums written by the DB Fund for the period under examination:

<u>Calendar Year</u>	<u>Direct Premium Written</u>
2015	\$17,722,773
2016	\$19,240,029
2017	\$21,225,793
2018	\$75,188,925
2019	\$58,068,962

C. Reinsurance Ceded

The DB Fund is strictly a direct writer and did not assume or cede any insurance during the examination period.

D. Related Party

The DB Fund is part of the SIF, which was created pursuant to the provisions of Article 6, Section 76 of the New York Workers' Compensation Law and functions as a New York State agency. Related parties for the SIF include New York State, the Worker's Compensation Board, and the three Funds, WC Fund, DB Fund, and the ATF.

The WC Fund allocates a standard portion of miscellaneous operating expenses (non-real estate) and a portion of real estate expenses to the DB Fund by allocating to all related DB Fund expense accounts. DB Fund's payroll is processed with WC Fund's payroll, and as such, DB Fund's employee's payroll is due to the WC Fund each month. The WC Fund allocates the direct portion of the DB Fund's compensation payments (indemnity, medical, and adjustment) from the WC Fund to the DB Fund.

Related Party Agreements

It is noted that the intercompany transactions between the Workers' Compensation Fund, Disability Benefits Fund, and Aggregate Trust Fund do not have formal documented agreements. Good business practices dictate that any agreements between two or more parties should be reduced to written form.

Furthermore, SSAP No. 25 states in part:

“Transactions between related parties must be in the form of a written agreement. The written agreement must provide for timely settlement of amounts owed, with a specified due date...”

It is recommended that SIF prepare a written agreement before entering into any arrangements with affiliated entities in accordance with SSAP No. 25.

#### E. Significant Ratios

The DB Fund’s operating ratios, computed as of December 31, 2019, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the NAIC.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to policyholders’ surplus	30%
Adjusted liabilities to liquid assets	21%
Two-year overall operating	81%

#### Underwriting Ratios

The underwriting ratios presented below are on an earned/incurred basis and encompass the five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$143,295,092	85.02%
Other underwriting expenses incurred	19,420,998	11.52%
Net underwriting gain (loss)	<u>5,832,399</u>	<u>3.46%</u>
Premiums earned	<u>\$168,548,489</u>	<u>100.00%</u>

The DB Fund is exempt from risk-based capital requirements.



### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2019, as reported by the DB Fund:

	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 83,457,618	\$ 0	\$ 83,457,618
Cash, cash equivalents and short-term investments	159,653,789	0	159,653,789
Securities lending reinvested collateral assets	75,337	0	75,337
Investment income due and accrued	681,051	0	681,051
Uncollected premiums and agents' balances in the course of collection	3,788,590	1,386,040	2,402,550
Deferred premiums, agents' balances and installments booked but deferred and not yet due	9,630,273	0	9,630,273
Prepaid expenses	83,596	83,596	0
Recoverable for premium tax	<u>223,913</u>	<u>0</u>	<u>223,913</u>
 Total assets	 <u>\$257,594,167</u>	 <u>\$1,469,636</u>	 <u>\$256,124,531</u>

Liabilities, surplus and other fundsLiabilities

Losses and loss adjustment expenses	\$ 16,367,544
Other expenses (excluding taxes, licenses and fees)	948,214
Unearned premiums	32,211,134
Advance premium	1,956,103
Amounts withheld or retained by company for account of others	1,961
Payable to parent, subsidiaries and affiliates	588,077
Payable for securities	2,060,253
Payable for securities lending	75,337
Policyholder credit balance	7,382,360
Loss refunds suspense	4,595
NSF E-checks	46,566
Accrued interest payable	<u>267</u>
Total liabilities	\$ 61,642,411

Surplus and other funds

Security fluctuation surplus	\$ 1,890,000
Epidemic and catastrophe surplus	4,000,000
Appropriated surplus OPEB/Pension	7,948,987
Unassigned funds (surplus)	<u>180,643,133</u>
Surplus as regards policyholders	<u>\$194,482,120</u>
Total liabilities, surplus and other funds	<u>\$256,124,531</u>

Note: The DB Fund is exempt from federal income taxes.

B. Statement of Income

The net income for the examination period as reported by the DB Fund was \$34,888,715, as detailed below:

Underwriting Income

Premiums earned		\$168,548,489
Deductions:		
Losses and loss adjustment expenses incurred	\$143,295,092	
Other underwriting expenses incurred	<u>19,420,998</u>	
Total underwriting deductions		<u>162,716,090</u>
Net underwriting gain or (loss)		\$ 5,832,399

Investment Income

Net investment income earned	\$24,254,143	
Net realized capital gain	<u>5,511,281</u>	
Net investment gain or (loss)		\$ 29,765,424

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(3,269,569)	
Finance and service charges not included in premiums	2,630,239	
Credit balances charged off	131,492	
Miscellaneous income	<u>(201,270)</u>	
Total other income		\$ <u>(709,108)</u>
Net Income		\$ <u>34,888,715</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$51,772,545 during the five-year examination period January 1, 2015 through December 31, 2019, as reported by the DB Fund, detailed as follows:

Surplus as regards policyholders per report on examination as of December 31, 2014			\$142,709,574
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$34,888,715		
Net unrealized capital gains or (losses)		\$ 42,738	
Change in nonadmitted assets		1,250,263	
NYS pension adjustment	909,000		
NYS OPEB adjustment	180,000		
Return of Premium Plan adjustment	<u>17,087,832</u>	<u>0</u>	
Total gains and losses	\$53,065,547	\$1,293,001	
Net increase (decrease) in surplus			<u>51,772,546</u>
Surplus as regards policyholders per report on examination as of December 31, 2019			<u>\$194,482,120</u>

No adjustments were made to surplus as a result of this examination.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$16,367,544 is the same as reported by the DB Fund as of December 31, 2019. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial standards of practice and statutory accounting principles, including the NAIC Accounting Practices & Procedures Manual and Statement of Statutory Accounting Principles No. 55.

## 5. SUBSEQUENT EVENTS

On March 11, 2020, the World Health Organization declared an outbreak of a novel coronavirus (“COVID-19”) pandemic. The COVID-19 pandemic has continued to develop throughout 2020, with significant uncertainty remaining regarding the full effect of COVID-19 on the U.S. and global insurance and reinsurance industry. At the time of releasing this report, the examination’s review noted that there has not been a significant impact to the DB Fund. The Department has been in communication with the DB Fund regarding the impact of COVID-19 on its operations and financial position. The Department continues to monitor the impact of the pandemic on the DB Fund and will take necessary action if a solvency concern arises.

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Related Party</u>	
i.	It is recommended that the SIF prepare a written agreement before entering into any arrangements with affiliated entities in accordance with SSAP No. 25.	6

Respectfully submitted,

\_\_\_\_\_/S/\_\_\_\_\_  
Kevin McNamee  
Associate Insurance Examiner

STATE OF NEW YORK    )  
                                  )ss:  
COUNTY OF NEW YORK )

Kevin McNamee, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

\_\_\_\_\_/S/\_\_\_\_\_  
Kevin McNamee

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

*NEW YORK STATE*

*DEPARTMENT OF FINANCIAL SERVICES*

*I, Adrienne A. Harris, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

***Kevin McNamee***

*as a proper person to examine the affairs of the*

***State Insurance Fund Disability Benefits Fund***

*and to make a report to me in writing of the condition of said*

***COMPANY***

*with such other information as he shall deem requisite.*

*In Witness Whereof, I have hereunto subscribed by name  
and affixed the official Seal of the Department  
at the City of New York*

*this 22nd day of September, 2021*

*ADRIENNE A. HARRIS  
Acting Superintendent of Financial Services*

*By:*

*Joan Riddell*

*Joan Riddell  
Deputy Bureau Chief*

